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PRISONERS' RIGHTS AND THE CORRECTIONAL SCHEME: THE LEGAL CONTROVERSY AND PROBLEMS OF IMPLEMENTATION A SYMPOSIUM*

INTRODUCTION

DONALD W. DOWD†

AGAIN I AM PRIVILEGED to moderate the Villanova Law Review Symposium. As in the past, it has been the objective of the symposium to bring together specialists in a variety of fields to discuss a problem of current legal significance. The past symposia in which I have participated have discussed such problems as Free Press and Fair Trial,¹ Life and Death and the Law² and the Right to Privacy.³ The subject for this year's Seventh Annual Symposium, Prisoners' Rights and the Correctional Scheme, is of singular interest and importance to the law, and one to which lawyers and law schools heretofore have had little or nothing to say. As I wrote in this Review last year,⁴ for the most part lawyers and judges in the field of criminal law have contributed enormously to the development of the fact finding and guilt determining processes, but have abandoned the problems of disposition to those in other disciplines. We are, as I said, similar to a medical profession that is concerned only with diagnosis and not cure. This Symposium is an important step in overcoming such a limitation. We have in this symposium a judge who is actively concerned with the responsibility of the judiciary in the correctional process. As Judge Spaeth's paper demonstrates, the judiciary can perform

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1. *A Free Press and A Fair Trial — A Symposium*, 11 VILL. L. REV. 677 (1966).

2. *The Medical, Moral, and Legal Implications of Recent Medical Advances — A Symposium*, 13 VILL. L. REV. 732 (1968).

3. *The Press, Privacy, and "Public" Figures — A Symposium*, 12 VILL. L. REV. 725 (1967).

4. Dowd, Book Review, 15 VILL. L. REV. 1031 (1970).

a creative and important role in resolving the difficult questions of the rights of prisoners and the rights of society. Mr. Rabinowitz' career belies my comment on lawyers and their role in disposition, or, perhaps more accurately, it is the exception which proves the rule. His active participation in cases involving corrections has been of singular importance in the development of the law. Mr. Crawford, from the Philadelphia District Attorney's Office, has developed new and interesting approaches to the disposition of offenders, and demonstrates that those with prosecutorial responsibilities also must be heard. Dean Paulsen, whose thoughtful writings about the criminal law in all areas are well known, has contributed an objective and scholarly perspective to the Symposium. Two gentlemen from the firing lines of correction were of great importance in creating balance in the Symposium. Correctional officers have long been open to much criticism and little help in their under-funded and too often thankless tasks. Mr. Brierley, both in his prepared statements, and especially in his comments in the evening session, showed an openness and receptivity which is most heartening. Mr. Taylor, a former prisoner, was the Hamlet in our production who so often is absent in other scenarios on correctional law. To have a panel on corrections and prisoners' rights without a prisoner or one with prison experience would be unthinkable.

We are not only grateful to our panel, but we are most grateful to our guests. Provocative and interesting questions and discussions were made possible by the participation of sociologists, correctional officers, police, representatives of the district attorney's office, judges, lawyers and, of course, law students. The purpose of a symposium is not to impose or sell fixed ideas, but to provide an atmosphere in which new ideas can be considered and in which varying views can be heard. It is not enough to hear from those who are professionally or academically concerned with the problem; one must hear from the various parties of the community which are affected by it. A symposium should bring together both the specialist's information, the concern of the man in the field, and the interest of the people. To a large extent I think this symposium succeeded in doing this. But it is just a beginning. The need for serious involvement on the part of law schools, lawyers and judges in the problems of corrections and the need for communication by those with responsibilities in the corrections institutions, those subject to it and those who would devise new plans for it, is ongoing. It is our hope that this Symposium will not be a momentary clearing in the forest but the beginning of a continuing attempt to master the wilderness of correctional law.